

GOVERNMENT OF TELANGANA  
ABSTRACT

Tribal Welfare Department - Khammam District - Revision Petition filed by Sri Ch. Surya Rao and Ch.Venkat Rao S/o Ch. Gopala Rao, R/o Jaggaram (V), Dammampeta (M), Khammam District aggrieved by the orders of the Agent to Government, Khammam in CMA No. 04/1998, dated 02.07.2000 in respect of Land to an extent of Acres 4-00 guntas in Survey No. 29 of Jaggaram (V) Dammampeta (M), Khammam District - Rejected - Orders - Issued.

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TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 50

Dated: 27-10-2018

Read the following:-

- 1.Revision Petition filed by Sri Ch. Surya Rao, and Ch.Venkat Rao S/o Ch. Gopala Rao, R/o Jaggaram (V), Dammampeta (M), Khammam District, Dt: 20.06.2007.
- 2.Orders of the Hon'ble High Court of Andhra Pradesh in W.P No: 13917/2000, dt: 07-06-2007.
- 3.Govt. Lr.No.4245/TW.LTR.2/2007, dated 10.07.2007.
- 4.From the District Collector, Khammam, Rc.No.F2/CMA-4/1998(RP4245/LTR-2/2007),Dt:7.01.2009.

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ORDER

In the reference 1<sup>st</sup> read above, Sri Ch. Surya Rao and Ch.Venkat Rao S/o Ch. Gopala Rao, R/o Jaggaram (V), Dammampeta (M), Khammam District have filed Revision Petition before the Government aggrieved by the orders of the Agent to Government, Khammam in CMA No. 04/1998, dated: 02/07/2000 in respect of land to an extent of Acres 4.00 gts. in Sy.No 29 of Jaggaram Village, Dammampeta Mandal, Khammam District.

2. In the reference 3<sup>rd</sup> read above, the District Collector, Khammam and the Project Officer & Additional Agent to Government, Khammam District were requested to furnish Para Wise Remarks and connected case records and in the reference 4<sup>th</sup> read above the Agent to Government, Khammam has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case are as follows:

- The District Collector (Agent to Government), Khammam has erroneously and without proper appreciation of evidence has passed the impugned order.
- The District Collector (Agent to Government), Khammam should have appreciated the fact that the earlier cases filed under the A.P. Scheduled Land Transfer Regulation 1/59 for the petitioner's ejectment were ended in dismissal, the first order being passed as long back as on 01-02-1974 which has become final and the further complaints which were filed in 1992, 1995 and 1997 also ended in dismissal and therefore the District Collector(Agent to Government), Khammam ought to have dismissed the appeal on the principle of res-judicata and ought to have upheld the orders of the Special Deputy Collector (Tribal Welfare), Paloncha, Khammam District in Land Transfer Regulation Case No. 1287/97/DPT, dated: 11-12-1997. Therefore the orders of the District Collector, Khammam are arbitrary, irregular and illegal.
- The District Collector (Agent to Government), Khammam failed to see that the land was purchased way back in the year 1957 i.e. prior to the commencement of Regulation 1/59 which came into force in Telangana Area with effect from 01-12-1963. Therefore, the sale is a legally valid sale.

[p.t.o]

- The District Collector (Agent to Government), Khammam failed to appreciate the fact and evidence on record wherein the 4<sup>th</sup> Respondent i.e. Sri Venkata Kamappa, S/o Peda Mutyaku, Jaggaram (V) Dammampeta (M), Khammam District himself has stated that the transaction was valid and genuine and his statement was recorded way back in the year 1974. Therefore, the District Collector (Agent to Government), Khammam ought to have dismissed the appeal on this ground alone instead of reversing the orders dated 11-12-1997 and the earlier orders dated 11-12-1974, 22-12-1992 and 14-08-1995 on which no appeals were preferred which action is arbitrary, illegal and unknown to the settled principles of law.
- The District Collector (Agent to Government), Khammam failed to appreciate the fact that under Section 8 (2) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, Law of limitation applies and even assuming that the ownership is contrary, the 4<sup>th</sup> Respondent i.e. Sri Venkata Kamappa, S/o Peda Mutyalu, Jaggaram (V) Dammampeta (M), Khammam District is stopped from filing one case after the other as no appeal has been filed against the earlier orders and which have become final and this contention was rightly upheld by the Special Deputy Collector (Tribal Welfare), Paloncha, Khammam District in the order dated 11-12-1997.
- The irregularity, arbitrariness and illegality of the District Collector, Khammam order can be gauged from the fact that C.M.A.No.4/98 was filed against the orders of the Special Deputy Collector (Tribal Welfare), Paloncha, Khammam District S.D.C., in L.T.R. Case No.1287/97/DPT, dated 11-12-1997 which itself is also hit by the principle of res-judicata whereas the District Collector (Agent to Government), Khammam has strangely passed orders reversing the orders dated 11-12-1974, 22-12-1992 and 14-08-1995 also against which no appeals were preferred at all.
- The District Collector (Agent to Government), Khammam failed to appreciate the fact that it is borne out of evidence on records that the matter is res-judicata and he cannot decide the case afresh.
- The District Collector (Agent to Government), Khammam should have seen that Sri Venkata Kamappa, Jaggaram (V) Dammampeta (M), Khammam District was even set expert in the appeal as there was no representation on his side and further no evidence whatsoever was produced on his behalf and therefore the District Collector (Agent to Government), Khammam ought to have dismissed the appeal instead of taking up the same by himself as a prosecutor and deciding the case by himself which action is highly arbitrary and illegal.
- The District Collector (Agent to Government), Khammam has committed a grave error of law in setting aside the order passed about 26 years back which clearly establishes the biased and vindictive attitude of the District Collector (Agent to Government), Khammam since 3 successive Officers who held the office of Special Deputy Collector (Tribal Welfare), Paloncha, Khammam District have categorically held that the transaction is not hit by the Regulation and that therefore they have no jurisdiction, the appeal ought to have been dismissed in limini.
- The order of the District Collector (Agent to Government), Khammam is so vague and erroneous that when in fact the order dated 11.12.1974 clearly states that the Sri Venkata Kamappa, Jaggaram (V) Dammampeta (M), Khammam District has accepted the sale and possession of the petitioner herein throughout to be genuine.

- The District Collector (Agent to Government), Khammam has committed grave error of law both in law and on facts and contrary to the initial evidence on record and the District Collector (Agent to Government), Khammam ought to have seen that there is no jurisdiction vested in him to set aside the orders which have become final and after a lapse of 26 years the District Collector (Agent to Government), Khammam cannot revise the orders which have attained finality. Further, the Act came into force with effect from 01.12.1963, as such the transactions which took place earlier to the Regulation 1/59 are not prohibited under Regulation 1/59. Therefore, the District Collector (Agent to Government), Khammam ought to have dismissed the appeal for lack of jurisdiction.
- Further the Hon'ble High Court in successful decisions had categorically held that the authorities have no jurisdiction to try the cases failing under this category and ought to have allowed the appeal as reported in 2000(5) ALD 588 and 1999 (6) ALD 718 2006(2) ALD 683 and Hon'ble Supreme Court of India reported in AIR 1996 SC 44 (Copies filed).

4. The remarks of the District Collector, Khammam on the Revision Petition are as under:

- As seen from the pahani of Jaggaram (V) of Dammapeta, (V) Sri Vanka Muthyalu, S/o Kannappa was the pattedar as well as occupant during the years 1961-62, 1963-64 and 1965-66. The name of the Revision Petitioners or their father does not find place in the above Revenue records. It is further submitted that mere production of un-registered sale deed, said to have been executed on 25-03-1957 are not duly stamped and registered u/s. 17-B of Registration Act, which cannot be admitted as an evidence of proof as per the observation made by the Hon'ble High Court in CRP No.1087/96, dt 10-08-1998 in Bangaru Rama Tulisamma, V/s Yada Masthan Reddy and another case. Hence, the contention of the Revision Petitioner is un-tenable
- The lower court order in Land Transfer Regulation case No.608/74 is flawed and against natural justice since the petitioner in Land Transfer Regulation case No.608/74 namely Vanka Peda Muthyalu was dead (As per lower court judgement), but the legal heirs were not brought on record as per procedure and no written statements of the legal heirs were available in the record. Due to lack of knowledge about the said judgement Sri Vanka Kannappa, Respondent No.4 herein has not preferred the appeal in the appellate court. Hence, the contention of the Revision petitioner in this paras is not maintainable.
- On receipt of the representation of the tribal petitioner therein, the lower court i.e., 2<sup>nd</sup> respondent herein initiated the case under LTR in case No.445/92/DPT, 236/95/DPT & 1287/97/DPT and passed orders 22-12-1992, 14-8-1995 and 11-12-1997 respectively that the cases were closed under the principle of law of resjudicata basing on the case was decided earlier on 11-12-1974 in case No.608/74. The lower court acted perversely without looking in to the merits of the case. Resjudicata has no application because the tribal respondent was never given chance to represent in the lower court. When he has not deposed at any time, Rejudicata does not apply. The issue of pattedar pass books and title deeds under Record of Rights Act is only procedural law. It is not substantive act and it does not confer title as per Rule 9(1) (a)(IV)[6] of Rights of Rule Act, and Rights of Rule Act cannot supersede the Land Transfer Regulation. Hence, the contention of the Revision Petitioner in these Paras is not maintainable.
- As seen from the Village Pahani, the name of the father of the Respondent No.4 herein i.e., Vanka Muthyalu, S/o Kannappa found in pattedar column and enjoyer's column for the year 1961-62, 1962-63, 1963-64, and 1965-66 and the name of the Revision Petitioner does not find place in the said record. The

(Contd...4)

crucial date of operation of AP (SA) LTR 1/59 in Telangana Area is 1-12-1963. Hence the Respondent No.4 herein has clear title for the said land and transaction after crucial date is banned, as it is invalid. Hence, the Agent to Government upheld the appeal filed by Sri Vanka Kannappa, Respondent No.4 herein. As such, the contention of the Revision petitioner is denied.

- The lower court passed orders in LTR case No.608/74, dt 11-12-1974 basing on the un-registered sale deed said to have been executed on 25-3-1957 and Land Revenue Receipts for the year 1958 to 1964 and towards, but nor co-related with the entries in Revenue Records. Mere production of un-registered sale deed and Land Revenue Receipts is not substantial evidence to prove the possession of the Revision Petitioner over the suit land. Further, no written statements of the tribal petitioner in the lower court are available in the file. As such the lower court orders in LTR Case No. 608/74, 11-12-1974 and subsequent orders dt: 22-12-1992, 14-8-95 and 11-12-1997 in Land Transfer Regulation case No.445/92/DPT, 236/95/DPT and 1287/97/DPT respectively passed on law of resjudicata were set aside by the Agent to Government in accordance with the provisions of the AP (SA) LTR Act, 1-1959. Thus the contention of the Revision Petitioner is not maintainable.
- The written statement of the tribal petitioner in lower court is not available on the record and on verification of lower court record, it appears that the tribal petitioner (Respondent No.4 herein) does not know the initiation and proceedings of the lower court in case No.608/74 and due to lack of knowledge, he has not preferred appeal before the appellate authority within the time limit. Keeping in view of the non-intimation of orders to the tribal petitioner and also to protect the interest of the tribal, the appeal filed by the tribal petitioner before the Agent to Government has taken on file. After hearing both parties and on verification of the Revenue Records, the appeal was allowed in CMA No. 4/98, dt 2.7.2000, which is in accordance with the provisions of AP (SA) LTR Act, 1/1959. Since the Revision Petition did not establish his clear title and possession over the disputed land by producing corroborative evidence to substantiate his legal right over the land the Agent to Government passed orders in a right manner. Hence the contention of the Revision Petitioner is not correct and liable to be rejected.
- It is not correct to say that the Revision Petitioner has no alternate remedy except invoking the extraordinary jurisdiction of the Hon'ble High Court of AP Hyderabad under article 226 of the Constitution of India. It is submitted that if the petitioner is aggrieved by the orders of this court in CMA No.4/98, dt 2-7-2000, he ought to have filed Revision Petition before the Government, which is next higher authority to seek redressal of his grievance. But before exhausting such channel, the Writ petitioner therein straight away filed the writ petitioner before the Hon'ble High Court. Hence, the contention of the Revision Petitioner is not maintainable and liable to be rejected.
- In view of the facts and circumstances explained above, it is respectfully submitted that the Respondent No.1 and 2 have acted in a proper manner and within the jurisdiction of the provisions under Land Transfer Regulation and passed orders according to rules, regulations, Laws and Acts in Force.
- Under the above circumstances, requested the Hon'ble Government to dismiss the Revision Petition filed by Sri Chelikani Surya Rao, & another, in the interest of Justice.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the District Collector, Khammam District it is observed that;

- The Revision Petition is filed against the order of the District Collector, Khammam District in CMA No. 4/1998, dt 02.07.2000. As per the documents produced the sale deed is un-registered which is not acceptable. As per the revenue records Sri Venkata Kamappa S/o Peda Mutyalu (Tribal Respondent) is Pattedar of the land.
- The Respondent has sold the land to the Revision Petitioner through sada sale deed. Hence Respondent cannot claim the land. Moreover he has not turned up for hearing in spite of repeated notice.

6. Government after careful examination of the matter hereby rejects the Revision Petition filed by Sri Ch.Surya Rao and Ch.Venkat Rao S/o Ch.Gopala Rao R/o Jaggaram (V) Dammampeta (M), Khammam District and upholds the orders of the District Collector, Khammam District in CMA No. 4/1998, dt 02.07.2000 in respect of land to an extent of Acres 4.00 guntas in Sy.No.29 of Jaggaram Village, Dammampeta Mandal, Khammam District and the orders of the Agent to Government are modified to the extent that the land be taken possession by Government and allotted to eligible Tribes.

7. The District Collector, Khammam District shall take necessary further action accordingly. The original case records received in the reference 4<sup>th</sup> read above are returned herewith to the District Collector, Khammam District.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,  
SECRETARY TO GOVERNMENT

To

- 1) Sri Ch.Surya Rao and Ch.Venkat Rao S/o Ch.Gopala Rao,  
R/o Jaggaram (V), Dammampeta (M), Bhadrachalam District.
- 2) Sri Ch.Venkata Rao, S/o Ch.Gopala Rao,  
R/o Jaggaram (V), Dammampeta (M), Bhadrachalam District
- 3) Sri Venkata Kamappa, S/o Peda Mutyalu (Respondent)  
Jaggaram Village, Dammampeta Mandal, Bhadrachalam District
- 4) The Project Officer, ITDA and Additional Agent to Government,  
Bhadrachalam, Bhadrachalam District (w.e.)

Copy to :

The Government Pleader for Social Welfare, High Court, Buildings, Hyderabad.

The Special Deputy Collector(TW), Bhadrachalam, Khammam District.

for information and necessary action.

Sri Ravi Shankar, Advocate (Counsel for petitioner)

H.No.16-2-740/64, Kalyan Nagar Colony,

Gaddiannaram, Hyderabad 500 660.

Sri Ch.Narasimha Rao and others,

Advocates (Counsel for Respondent)

ITDA Legal Cell, Bhadrachalam

Kothagudem District.Cell:9515807883.

P.S to M(TW)/P.S. to Secretary(TW)

SF/SC

// FORWARDED:: BY ORDER //

SECTION OFFICER